S.B.CIVIL WRIT PETITION NO.3930/1994

Ramkishan Machra

versus

Rajasthna Rajya Sahkari Spinning & Ginning Mills Federation Limited, Jaaipur & Anr.

DATE OF ORDER :: 21st May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.K.Parihar, for the petitioner.
Mr. Rajesh Joshi, for the respondents.

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By this petition for writ a challenge is give to the order dated 29.4.1994 passed by the General Manager, Rajasthan State Cooperative Spinning & Ginning Mills Federation Ltd., Hanumangarh terminating the petitioner from service.

In brief, facts of the case are that the petitioner in the year 1987 was employed with the respondents as clerk on daily rate basis. By an order dated 1.3.1994 a regular appointment was given to him as Cotton Delivery Clerk in the pay scale of Rs.950-1680 and he was placed on probation. By order impugned the petitioner was terminated from service on the grounds that; (1)the Superintendent of Police, Churu found character and conduct of the petitioner suspicious being convicted by a competent court; (2)

the petitioner was facing a criminal trial and this fact was concealed by him; (3)the workman has lost confidence of the management for the reasons mentioned above and as such he was not fit to hold the post; and (4)further continuous of the petitioner in service was not in interest of the mill.

The petitioner on receiving the order dated 29.4.1994, by a communication dated 8.5.1994 while making a request to cancel the order aforesaid clarified that he was never convicted by any competent court in a criminal case and also that no criminal case was pending against him. No action was taken by the respondents, therefore, the petitioner approached this Court by way of filing instant petition for writ.

In reply to the writ petition the stand of the respondents is that the appointment of the petitioner was on probation and on basis of information supplied by the Superintendent of Police, Churu his conduct was doubtful, therefore, the order terminating the petitioner from service was rightly passed.

Heard counsel for the parties.

It is not in dispute that the petitioner was not at all convicted by any competent court and also that at the time of appointment he was not facing any

criminal trial. On asking it was also stated by counsel for the respondents that while making appointment to the post of Cotton Delivery Clerk the facts regarding involvement in any criminal case even in past were not demanded, thus, there was no question of concealment of any fact. In view of the factual position above, I am of the view that foundation of the order dated 29.4.1994 is not in existence and, therefore, the order impugned deserves to be quashed, however, the respondents also discontinued the petitioner from service on the ground of loss of confidence and specially looking to the facts as stated by counsel for the respondents that the respondent Mill is a sick industry and is not in requirement of additional staff, I consider it appropriate to award compensation to the petitioner instead of reinstatement in service. The age of the petitioner at the time of filing of petition was of 40 years and about 13 years have already been passed from the date of termination. Considering all relevant facts and looking to peculiar facts and circumstances, a sum of Rs.50,000/- shall be an adequate compensation against the injury caused to the petitioner.

Accordingly, this petition for writ is disposed of with a direction to the respondents to pay a sum of Rs.50,000/- to the petitioner as compensation within a period of six months from today. If the respondents fails to pay such compensation within the

period aforesaid, the petitioner shall be entitled for the interest thereon @ 9% per annum.

(GOVIND MATHUR),J.

Kkm/ps.